

Proceeding: INQUIRY CONCERNING THE DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS ☒ Record 1 of 1  
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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of	)	
Advanced Telecommunications	)	
Capability to All Americans in a	)	CC Docket 98-146
Reasonable and Timely Fashion, and	)	
Possible Steps to Accelerate Such	)	
Deployment Pursuant to Section 706	)	
of the Telecommunications Act of 1996	)	
	)	

**COMMENTS  
of the  
ASSOCIATION FOR THE PROMOTION AND  
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

**I. INTRODUCTION**

1. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the Federal Communications Commission's (FCC) Notice of Inquiry (NOI) in the above-referenced Docket. OPASTCO is a national trade association representing over 500 independently owned and operated telephone companies servicing rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over two million customers. Member companies provide a

wide variety of telecommunications services in low-density, high-cost communities.

Nearly two-thirds of OPASTCO member companies (either directly or through their affiliates) provide Internet access; approximately one-third supply wireless service; while 25 percent offer cable television. Additional technologies and services such as Digital Subscriber Line (DSL), Integrated Services Digital Network (ISDN), frame relay, direct broadcast satellite and educational interactive videoconferencing are also provided by members.

2. The Commission is concerned about demand for, and deployment of, advanced services in rural areas.<sup>1</sup> Providers of any sort of rural communications service face hurdles that are not encountered in locations with higher population density. The per unit cost of deploying the technology necessary to deliver advanced services will generally be higher in places where there are fewer customers. In areas where those few customers tend to be spread over wide areas, costs will be higher still. Delivery of advanced services to customers in rural and insular locations faces many of the same difficulties that rural LECs must overcome to provide voice service. The Commission must bear in mind that in order to achieve its goals of affordable, timely deployment to all Americans, any regulations that are adopted must not add to the formidable difficulty and expense providers must surmount to bring advanced service to rural customers.

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<sup>1</sup> NOI, paras. 65 - 66.

## **II. EXPANSION OF RURAL LECs' CURRENT PROVISION OF A VARIETY OF ADVANCED SERVICES SHOULD BE ENCOURAGED**

3. The NOI seeks information regarding the services that providers want to supply, as well as which companies have the motivations to offer such services to subscribers, especially residential customers.<sup>2</sup> As noted above, rural carriers, either directly or through a subsidiary or partnership, already bring a variety of advanced services to their customers. Due to the efforts of rural LECs, some schools and health care facilities in sparsely populated areas have videoconferencing and high-speed Internet capabilities used for distance learning. At times, such broadband services are provided at a discount; this practice pre-dates the current "e-rate" program. Rural carriers are involved in developing LMDS to provide broadband services to customers. Digital Subscriber Line (DSL) technology has reached some rural customers already, while subscribers in larger markets continue to wait. Rural businesses and health care facilities communicate with customers and consult with specialists through their carriers' fiber optic or hybrid fiber/coax (HFC) networks. However, new regulatory burdens could place some or all of these advance service offerings at risk.

4. Rural LECs are practiced hands at providing modern services in spite of the difficulties inherent to high-cost areas. Despite doubts expressed by some,<sup>3</sup> LECs in rural areas have an incentive to make advanced capabilities available because their own community (which is also their market) will thereby be improved.

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<sup>2</sup> *Ibid.*, para. 8.

<sup>3</sup> *Id.*, para. 21.

### **III. RURAL CARRIERS MUST BE GRANTED THE FLEXIBILITY TO USE DELIVERY MEDIUMS AND BUSINESS MODELS THAT ARE APPROPRIATE TO THEIR LOCAL OPERATING CONDITIONS**

5. The Commission “intends for advanced technology to have every opportunity to flourish” and seeks to achieve Congress’ goal of “timely” deployment “to all Americans.”<sup>4</sup> In order to achieve these worthy ends, the Commission must eschew regulations which will impede broadband deployment in high-cost locations. The market should be governed by consumer demand and technological advancement, with minimal regulatory involvement.

6. While details will vary according to the technology in question, per-customer costs tend to be highest in sparsely populated areas. Regulatory burdens that increase these already high costs will thwart the Commission’s stated goals. In order to avoid slowing or stopping the deployment of advanced services in high-cost areas, rural LECs (which operate with limited financial and personnel resources) need to have the flexibility to utilize different delivery mediums and business relationships depending on the local market conditions and operational environment.

7. In order to deliver advanced services in rural areas, providers must have the flexibility to use whatever delivery mediums (such as xDSL, MMDS/LMDS, cable, or satellite) are appropriate to the locality's market and operational conditions. Further, rural carriers must be able to deliver service to customers under business arrangements that make sense according to local circumstances. This might mean direct service by a LEC; a partnership or consortium; a reselling arrangement; or a subsidiary with appropriate ties

to the LEC; or some combination of the above. Regulatory micromanagement of affiliates will impede delivery of these services in rural areas. As previously mentioned, some OPASTCO members or their affiliates already offer advanced services to rural customers. In such circumstances, any rules adopted by the Commission should include clauses which “grandfather” any current arrangements that bring affordable broadband services to rural customers.

8. For advanced services to reach “all Americans” in a “timely” manner as Congress and the Commission propose, LECs in high-cost areas must be able to act without undue restraints. The Commission, in a related proceeding, has tentatively concluded that incumbent LECs must form a separate affiliate subject to extreme separations requirements in order to provide advanced services without disproportionate regulatory burdens.<sup>5</sup> Alarming, instead of recognizing the difficulties inherent to providing service in high-cost areas, the NPRM entertains imposing these harshly burdensome regulations on rural LECs.<sup>6</sup> Such actions would drive the costs of providing advanced service so high that virtually no rural LEC could consider offering them.

9. If regulations such as severe separate affiliate requirements are adopted which make advanced services more costly, rural schools and health care providers that already receive such services will be forced to pay more or cut back. This would dilute the

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<sup>4</sup> *Id.*, para. 1.

<sup>5</sup> *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, etc., Memorandum Opinion and Order and Notice of Proposed Rulemaking, CC Docket No. 98-147, FCC #98-188, para. 9 (NPRM).

<sup>6</sup> NPRM, paras. 97 - 98. OPASTCO will file separately in that docket to further address this issue.

benefits of the discounts. It would make little sense for the Commission to go to pains to create the e-rate program on the one hand, only to diminish its utility with the other.

#### **IV. REGULATION MUST NOT IMPEDE DELIVERY OF ADVANCED SERVICES TO RURAL CUSTOMERS**

10. Other regulatory barriers must be avoided if the Commission wants to see advanced services offered on a widespread basis. As OPASTCO has stated previously,<sup>7</sup> requiring higher charges on non-primary residential lines will have a chilling effect on the penetration of advanced services. This is especially true considering that some broadband delivery methods are limited by cost or technology to one-way delivery.

11. For example, it is very expensive to upgrade cable systems, designed from the outset to deliver signals downstream only, into an interactive medium. In sparsely populated areas with few customers per mile, such a conversion would be even more costly. Cable providers, whether affiliated with a rural LEC or not, might well elect to provide downstream data to consumers, using standard modems for the return path. Similar situations apply to satellite and some wireless delivery options. In all such cases, a standard telephone line is necessary to use broadband services. Assuming small LECs were capable of tracking which households had non-primary lines in order to collect higher charges, the existence of those charges would hinder consumers from ordering additional lines for an upstream path to broadband services. Any regulation that forces

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<sup>7</sup> See, Rural Telephone Coalition (RTC) Comments, CC No. 96-262, Jan. 29, 1997, pp. 7-9; RTC Reply Comments, CC Docket No. 96-262, Feb. 14, 1997, pp. 11-13; RTC Petition for Reconsideration, CC Docket No. 96-262, July 11, 1997, pp. 7-8; RTC Comments, CC Docket No. 97-181, Sept. 25, 1997, pp. 2-4; OPASTCO Comments, CC Docket No. 98-77, Aug. 17, 1998, pp. 14-15.

rural ILECs to charge customers more for a second line hinders the Commission's goals as stated in this NOI.

12. The NOI also examines the possibility of coordinated Commission and state actions to expand local dialing areas in order to make data access more accessible.<sup>8</sup> Any move to expand local dialing areas, for whatever reason, must include cost recovery mechanisms for LECs. Expanding dialing areas will not help customers if doing so causes LECs to lose revenue, which would imperil maintenance and upgrades of physical plant.

#### **V. NEW TECHNOLOGY, NOT REGULATION, IS THE BEST PATH TO LOWER PRICES AND COMPETITION**

13. The "last mile" is not, even today, the exclusive domain of twisted pair copper wire. Coaxial cable is already installed in, or within very easy reach of, most American homes. Satellite and wireless dishes become smaller and less expensive every year. The NOI asks if such developments could lead to widespread competition for control of the "last mile" even in rural, residential markets.<sup>9</sup> Technological advancements lead to lower costs. This is already creating some competition in rural areas. As costs continue to drop and newer technologies become available, competition will continue to increase. New hardware for the Public Switched Telephone Network (PSTN) that integrates voice switching with Internet Protocol (IP) routing is beginning to appear. This market-driven development promises to lead to reduced prices for consumers. However, if regulatory

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<sup>8</sup> NOI, para. 83.

<sup>9</sup> NOI, para. 56.



burdens, such as requiring separate affiliates that cannot share equipment, are imposed, efficiencies such as this will be negated.

**VI. UNIVERSAL SERVICE WILL CONTINUE TO EVOLVE ONLY AFTER HIGH-COST VOICE SERVICE IS ASSURED**

14. The relationship between Sections 706 and 254 of the Telecommunications Reform Act of 1996 (Act) is explored by the NOI.<sup>10</sup> While Section 706 is important, calls for making advanced services available to “all Americans” would ring hollow without assurances that homes, businesses and community institutions in high-cost areas will have access to the nation’s communications network. The priorities are self-evident: without sufficient, specific and predictable high-cost support, other goals are not attainable.

15. The Act declares that universal service is “an evolving level of telecommunications services” which shall be established by the Commission “periodically.” The Commission must determine which services meet the Act’s criteria to receive universal service support, based on Joint Board recommendations. Among the factors to be considered are whether services under consideration are offered by carriers through their telecommunications networks, and chosen by a large majority of consumers.<sup>11</sup> OPASTCO applauds these criteria, which act to assure rural customers that the services available to them will be comparable to those widely available in urban areas.

16. Nevertheless, nothing in the Act counters the fact that universal service should have priorities. “Plain Old Telephone Service” (POTS) may seem old fashioned or

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<sup>10</sup> NOI, para. 72

<sup>11</sup> 47 U.S.C. Sec. 254(c)(1-2)

quaint compared with services that are currently developing. However, Internet access is of little use to a home or school if the cost of access to the local loop is driven out of reach. There would be little purpose to a program that made a wide data pipe available at the cost of making local connections unaffordable.

## **VII. CONCLUSION**

17. Section 706 of the Act seeks to provide affordable advanced services to all customers in a reasonable amount of time. In order to achieve these goals in rural areas, regulation must be minimal and allow market and technological factors to bring maximum benefits to consumers. The Commission must consider the widely varying circumstances of LECs serving different high-cost areas, and allow them to provide advanced services through any delivery medium, and under any business arrangement,

that is appropriate to local conditions. All options must be open to rural LECs, just as they are to new entrants.

Respectfully submitted,

**THE ORGANIZATION FOR THE  
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SMALL TELECOMMUNICATIONS  
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